

Martin and *W. Dorsey*, for the Appellant, in arguing on the first bill of exceptions, contended that the judgment of the commissioners, under the commission of bankruptcy, was not *prima facie* evidence sufficient to prove that *Brown* was a bankrupt under the bankrupt law of the United States of the 4th of April 1800. In *England*, under the bankrupt laws, the assignees in suits brought by them, are bound to prove every fact by *viva voce* evidence. The proceedings of the commissioners are not evidence even in actions to recover money due to the bankrupt; they are not evidence except in actions between parties and privies. Upon common law principles the judgment of the commissioners is not evidence for any purpose; and the bankrupt cannot be a witness to prove his own bankruptcy. They cited the bankrupt law of the United States, passed on the 4th of April 1800, (3 Vol. Laws U. S. 320.) *Bull. N. P.* 37. *Cooper's B. L.* 105, 173, 306, 307, 380. *Abbot vs. Plumb*, 1 *Dougl.* 216. *Chapman vs. Gardner*, 2 *H. Blk. Rep.* 279. *Bateman vs. Bailey*, 5 *T. R.* 512. *Selw. N. P.* 222, 226. *Vaughan vs. Martin*, 1 *Esp. Rep.* 440. 1 *Lofft's Gilb.* 31, 32, 64, 65. *Mann vs. Shepherd*, 6 *T. R.* 79. *Field vs. Curtis*, 2 *Stra.* 815; and *Bickerdike vs. Bollman*, 1 *T. R.* 405.

On the second bill of exceptions they contended, that the declaration in ejectment shows that the demise was laid on the 1st of January 1801, long before the title accrued to the lessors of the plaintiff, and therefore the plaintiff could not recover. They cited *Berrington vs. Parkhurst*, 2 *Stra.* 1086. *Runn. Eject.* 86. *Bull. N. P.* 105, 106, 86, 87. 2 *Esp. Dig.* 443. 3 *Blk. Com.* 205; and *Aslin vs. Parkin*, 2 *Burr.* 668.

On the third bill of exceptions they contended, that the title set out did not give *Brown* a title to the lot in question; and there was no evidence that Col. *Howard* had a title to the premises by him conveyed to *Didier*, under whom *Brown* claimed.

On the fourth and fifth bills of exceptions they contended, that under the bankrupt law the whole proceedings of the commissioners, not a particular part, may be evidence for certain purposes, but that here a part only of the proceedings had been offered and admitted as evidence.

Key, *Harper* and *S. Chase*, jr. for the Appellee, contended, upon the first bill of exceptions, that the commis-

1810.
Wood
vs
Grundy, &c.